

POTTS STEPHENSON EXPLORATION CO.

IBLA 81-150

Decided December 28, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM 41410.

Affirmed.

1. Mineral Leasing Act: Lands Subject to -- Oil and Gas Leases: Lands Subject to

Lands situated within the borders of incorporated cities and towns are excluded from leasing by the express terms of section 1 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 181 (1976).

APPEARANCES: H. Marshall Farrier, Esq., Oklahoma City, Oklahoma, for appellant.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

By decision dated October 15, 1980, the New Mexico State Office, Bureau of Land Management (BLM), rejected appellant's over-the-counter noncompetitive oil and gas lease offer, NM 41410, for lots 1 and 2, sec. 20 and lots 6 and 7, sec. 29, T. 10 N., R. 4 W., Indian meridian in Cleveland County, Oklahoma. The stated reason for rejecting the offer was that the lands "are located within the corporate boundaries of Oklahoma City, Oklahoma. Pursuant to 43 CFR 3101.1-1(b)(3), the above lands are not available for oil and gas leasing."

[1] On appeal, appellant does not argue that the lands sought are outside the incorporated city limits of Oklahoma City. Rather it contends that the area for which a lease is sought is rural, that it is willing to accept no surface occupancy stipulations, and it points out the city of Oklahoma City has procedures for permitting the drilling of oil and gas wells within the city limits. It generally alleges permanent and irreparable harm from the denial of its lease application.

While appellant's arguments are not without merit from a practical point of view, this Department's authority to issue oil and gas leases is circumscribed by the terms of the Mineral Leasing Act of 1920, 30 U.S.C. § 181 (1976). Section 1 of the Act provides for the issuance of oil and gas leases for lands owned by the United States, but expressly excludes, inter alia, lands "in incorporated cities, towns, and villages." 30 U.S.C. § 181. As this Board has held on numerous occasions, land within the boundaries of incorporated cities may not be leased under the present statutory framework. See Nova L. Dodgen, 54 IBLA 340 (1981); L. A. Walstrom, Jr., 46 IBLA 389 (1980); Ed Pendleton, 43 IBLA 398 (1980). The State Office correctly rejected appellant's offer.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

